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Attorneys for Plaintiffs,
*Dwight Spence Sr., Diana Spence,
Dwight Spence Jr., and Mitchell Spence*

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA DIVISION

* * *

**Dwight Spence, Diana Spence, Dwight
Spence, Jr., and Mitchell Spence,**

Plaintiffs,
vs.

Lumber Liquidators, Inc., a Delaware
Corporation; **Lumber Liquidators
Leasing, LLC,** a Delaware limited liability
company; **Lumber Liquidators
Holdings, Inc.,** a Delaware Corporation,
Lumber Liquidators Services, LLC, a
Delaware Limited Liability Corporation;
Does I-X; and Roe Corporations I-X,

Defendants.

Case No.: 1:15-md-2627 (AJT/TRJ)

**Plaintiffs' Response to Defendant
Lumber Liquidators' Motion to
Compel Further Responses to the
Supplemental Fact Sheet**

Affidavit of Counsel in Support of Opposition to Defendant Lumber Liquidators' Motion to Compel Further Responses to the Supplemental Fact Sheet

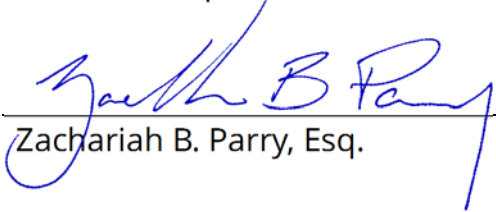
State of Nevada

County of Clark

Zachariah B. Parry, being duly sworn, states that he is the attorney for the the Spence Family in the above-captioned case and has personal knowledge of the contents of this affidavit.

1. I have offered to speak to defense counsel Robert Redmond several times to see if we can resolve this issue, but Mr. Redmond and I have never spoken.

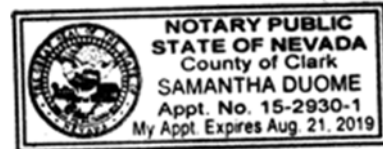
2. Mr. Redmond and I never had the LR 37(E) in-person or telephonic conference that is a mandatory prerequisite to filing a motion to compel.


Zachariah B. Parry, Esq.

Sworn to and Subscribed before
me this 7th day of February 2018.



Notary Public in and for said County
and State



Memorandum of Points and Authorities

I.

Procedural History

The Spence family filed their lawsuit against Lumber Liquidators in July 2016. Since that time, both the Spences and Lumber Liquidators engaged in extensive discovery, including four depositions of the plaintiffs, multiple sets of discovery requests, and multiple sets of witnesses and document disclosures.

After nine months, and when the 30(b)(6) deposition of Lumber Liquidators was pending, Lumber Liquidators removed this case to federal court, and it was transferred to the Eastern District of Virginia.

II.

Law and Argument

There is a procedure in place for resolving discovery disputes that applies when a party believes it has not gotten the discovery responses required under the rules. According to F.R.C.P. 37, a party may move for an order compelling a discovery response.¹ However, prior to filing a Rule 37 Motion, counsel must have conferred in person or by telephone “to decrease, in every way possible the filing of unnecessary discovery motions.”²

“The Court will not consider any motion concerning discovery matters unless the motion is accompanied by a statement of counsel that a good faith effort has been made between counsel to resolve the discovery matters at issue.”³

Defense counsel, the movant, has made no attempt to have an in-person or telephonic conference, and no compliant statement of counsel accompanied the motion. Plaintiffs remain available to discuss these discovery issues and reach a reasonable and amicable resolution with defense counsel.

III.

Conclusion

This Motion is premature and has not met the mandatory meet-and-confer requirements imposed by the local rules. Therefore, the Motion must be denied.

¹ F.R.C.P. 37(a)(3)(AB).

² LR 37(E).

³ *Id.*

1 DATED this 7th day of February 2018.

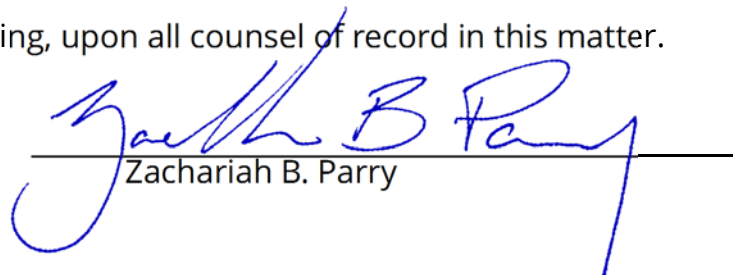
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10 **Certificate of Service**

11 I hereby certify that on the 7th day of February 2018, a fair and accurate copy of
12 the foregoing was filed electronically with the clerk of this Court using the CM/ECF
13 system, and in accordance with Local Rules and the procedures adopted in the Initial
14 Order and Pretrial Order no. 1A. This filing will cause a copy of this document to be
15 served, via a Notice of Electronic Filing, upon all counsel of record in this matter.
16

17 
Zachariah B. Parry